

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the Wisconsin Department of Transportation for the Establishment of a Public Crossing of the Wisconsin & Southern Railroad Co. Tracks with the Marsh View Bike Path in the City of Madison, Dane County

9170-RX-179

FINAL DECISION

By letter dated June 4, 2004, the Wisconsin Department of Transportation (DOT) petitioned the Office of the Commissioner of Railroads (OCR) for the establishment of a public crossing of Marsh View Bike Path with the Wisconsin & Southern Railroad Co. (WSOR) tracks located in the City of Madison, Dane County.

Jurisdiction: Secs. 195.28 and 195.29, Stats.

Pursuant to due notice, public hearing was held in this matter on July 1, 2004 in Madison, Wisconsin with hearing examiner Douglas S. Wood presiding.

On July 2, 2004, the hearing examiner issued a proposed decision. On July 13, 2004 the City of Madison filed comments supporting the proposed decision. On July 19 the DOT also filed comments supporting the proposed decision.

The Commissioner does make one change to the proposed decision. The Commissioner adds a paragraph to the Order that makes the City of Madison responsible for the cost of future improvements to the crossing or crossing warning devices or both that are needed as a result of high speed rail. The proposed decision noted that DOT and the City have entered into an agreement to that effect, but did not include this item in the proposed order. With that change, the Commissioner adopts the proposed decision as final.

Appearances:

Parties

Wisconsin Department of Transportation, Petitioner
by
Mark Morrison, PE
Grade Crossing Safety Engineer
PO Box 7914
Madison, WI 53707-7914

In Support:

City of Madison
by
Tom Walsh, PE
Traffic Operations & Safety Engineer
PO Box 2986
Madison, WI 53701

As Interest May Appear:

Wisconsin & Southern Railroad Company
by
David J. Bierman, Project Inspector
1890 E Johnson Street
Madison, WI 53704

Findings of Fact

THE COMMISSIONER FINDS:

The Wisconsin Department of Transportation and the City of Madison propose to establish a public crossing of Marsh View Bike Path with the Wisconsin & Southern Railroad Co. tracks. The DOT and the City of Madison plan to construct a pedestrian and bicycle path during the 2005 construction season. The proposed path would intersect with the Wisconsin & Southern Railroad Company's Madison Subdivision, under the STH 30 overpass. The path will also cross Starkweather Creek immediately southeast of the crossing.

The Marsh View Bike Path will be 10' wide with 2'-wide unpaved shoulders and will intersect the WSOR track at an angle of 90°. The crossing consists of one mainline track. The DOT is in the process of acquiring this rail corridor by the end of 2004. The WSOR will remain as the operator. This line is also part of the Madison to Milwaukee High Speed Rail corridor. Maximum train speed at this crossing location is planned to be 60 mph. The City of Madison and DOT entered into a Memorandum of Understanding (MOU) that makes the City of Madison responsible for the cost of future improvements to the crossing or crossing warning devices or both that are needed as a result of high speed rail.

The City projects Marsh View Bike Path will carry about 100 users per day during clement weather. The path will be open year-round with snow being plowed in winter. The path will be open to non-motorized uses only with the possible exception of city maintenance vehicles. The design speed for bicycles is 20 mph.

The Marsh View Bike Path will provide an off-road trail connection between two neighborhoods not currently linked by pedestrian friendly routes and bounded by major highways. The path will also connect these neighborhoods with major commercial areas. The primary purpose of the path is transportation with recreational use being secondary.

The railroad currently operates 2 to 6 through train movements per day over the proposed crossing location at a speed of 10 mph. Seasonally, the number of trains may be as high as ten per day.

A bicyclist traveling at 20 mph needs a distance of 125' on the southeast approach and 140' on the northwest approach to stop safely. The crossing will be visible from the safe stopping distances. Assuming a train speed of 10 mph, a bicyclist traveling at 20 mph needs to see a train when it is 105' from the crossing and the bicyclist is at the safe stopping distance. The sight distance available in each quadrant from the safe stopping distance will be adequate in the southeast and northeast quadrants, but will be less than 105' in the northwest and southwest quadrants due to an embankment and crash walls.

The necessary clearing sight distance at the Marsh View Bike Path crossing is 180'. The available clearing sight distance is at least 250' in all quadrants.

Crossbucks and stop signs will adequately protect public safety based on the low train speed and relatively low number of train operations. However, in the event that High Speed Rail service becomes a reality the safety of the crossing will need to be reevaluated.

In summary, the establishment of the crossing at-grade of the Wisconsin & Southern Railroad Co. tracks with Marsh View Bike Path will promote public safety and convenience by safely providing an important pedestrian and bicycle transportation connection.

Source of funding: The project will fund all costs for the construction of the crossing and warning devices.

Ultimate Conclusions on the Issues

THE COMMISSIONER CONCLUDES:

1. That the establishment of the crossing at-grade of Marsh View Bike Path with the Wisconsin & Southern Railroad Co. tracks in accordance with the design plans of the Wisconsin Department of Transportation and the City of Madison in the City of Madison, Dane County will promote public safety and convenience.

2. That establishment of the crossing is advisable under all the circumstances.

3. That in order to adequately protect and promote public safety, it is necessary to install and maintain advance warning signs, stop signs, and reflective crossbucks.

4. That it is reasonable that the Wisconsin & Southern Railroad Co. bear no part of the cost for the crossing construction.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin & Southern Railroad Co.** shall install and maintain a concrete panel crossing at-grade of Marsh View Bike Path with its tracks in accordance with the design plans of the Wisconsin Department of Transportation and the City of Madison in the City of Madison, Dane County by **August 31, 2005.**

2. That the **Wisconsin & Southern Railroad Co.** shall install and maintain retroreflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the crossing of its tracks with Marsh View Bike Path at-grade in the City of Madison, Dane County by **August 31, 2005.**

3. That the **City of Madison** shall install and maintain stop signs on separate posts on each approach to the crossing of the Wisconsin & Southern Railroad Co. tracks with Marsh View Bike Path at-grade in the City of Madison, Dane County by **August 31, 2005.**

4. That the **City of Madison** shall install and maintain advance warning signs (sign W10-1) a distance from the crossing in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) on each approach by **August 31, 2005.**

5. That the **City of Madison** shall be responsible for the cost of future improvements to the crossing or crossing warning devices or both that are needed as a result of high speed rail.

6. That the **Wisconsin & Southern Railroad Co.** shall bear no part of the cost of the crossing construction, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

7. That jurisdiction is retained.

Dated at Madison, Wisconsin, _____.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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